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PATENT

Docket No: BP-87

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

Applicant: Thomas Solderits
Serial No: 10/675,808
Filed: September 30, 2003
For: MICROPHONES WITH EQUAL SENSITIVITY
Examiner: Vivian Chin
Art Unit: 2600

Mail Stop Appeal Briefs-Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

SUBMISSION OF BRIEF ON APPEAL

S I R:

Submitted herewith is a Brief on Appeal in support of the
appeal filed January 16, 2008.

03/25/2008 SDENB083 00000023 10675008

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510.00 OP

The amount of \$510.00 to cover the fee for filing an appeal brief is being charged as per attached credit card form PTO-2038.

Any additional fees or charges required at this time in connection with the application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.


Respectfully submitted,

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Dated: March 20, 2008

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By:  Date: March 20, 2008
Friedrich Kueffner



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BRIEF ON APPEAL

S I R:

This Appeal is taken from the final action mailed October
16, 2007.

REAL PARTY IN INTEREST

The real party in interest in the above-identified application is:

AKG Acoustics GmbH
Lemböckgasse 21-25
A-1230 Wien
Austria

RELATED APPEALS AND INTERFERENCES

There are no presently pending related appeals or interferences of which applicant is aware regarding the above-identified application.

STATUS OF CLAIMS

Claims 1, 2, 4 - 6 and 8, 9 are pending in this application and are subject to the present appeal. (Even though in the Office Action summary these claims are indicated as being allowed, it is clear from the remainder of the Office Action that these claims are rejected over art).

Claim 9 stands rejected under 35 U.S.C. 102(b) as being

anticipated by Killion. Claims 1, 2, 4-6 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Killion.

STATUS OF AMENDMENTS AFTER FINAL REJECTION

An Amendment after final rejection was filed on January 16, 2008. In an Advisory Action dated February 15, 2008, the Examiner indicated that, upon filing of an appeal, the amendment after final rejection will be entered.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The claimed invention will now be summarized with reference to the drawings being made by way of reference numerals.

Independent claim 1:

The claimed invention relates to a method for producing a microphone 1 with a stipulated sensitivity within narrow limits.

As illustrated in Fig. 1, the microphone includes a microcapsule 2 and an amplifier 3 mounted in a housing,

mentioned in the first paragraph on page 13 of the specification as originally filed, and as illustrated in broken lines in Figs. 1-3 and 5 of the drawing. The method comprises the steps of providing the amplifier with a network of passive components, as mentioned in the full paragraph in page 7 of the application. The sensitivity of the microphone is measured and the passive components are disconnected to alter amplification of the amplifier, so that the sensitivity of the microphone lies within the desired range, as mentioned in the second paragraph on page 8 of the specification. The disconnecting step includes destroying the passive components with a laser beam directed through openings 7 in the housing, as discussed in the first paragraph on page 13 of the application.

The invention is also directed to a microphone having a sensitivity stipulated within narrow limits.

The microphone comprises a housing illustrated in broken lines in Figs. 1-3 and 5 of the application. Mounted in the housing are a microcapsule 2 and an amplifier 3 as well as a network of passive components allocated to the amplifier 3. As described in the first paragraph on page 13 of the application and illustrated in Fig. 5, disconnection of the disconnected component occurs by destruction of an electrical feed line of

the component by a laser beam directed through an opening 7 of the housing 6.

Independent claim 9 is identical to claim 5 except that the amplifier 3 and the network of passive components 6 are mounted in a circuit board, as described in the second paragraph on page 13 of the application.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds are presented for review:

Whether claim 9 is anticipated under 35 U.S.C. §102(b) by Killion and whether claims 1, 2, 4-6 and 8 are unpatentable under 35 U.S.C. §103(a) over Killion.

ARGUMENT

The applicant respectfully submits that the rejections of the claims in view of the reference to Killion is incorrect.

The Examiner correctly describes certain aspects of the reference to Killion, namely, that Killion teaches a method for producing a microphone with a microcapsule and an amplifier,

wherein the method comprises providing the amplifier with a network of passive components, measuring the sensitivity of the microphone and disconnecting the passive components to alter amplification of the amplifier, so that the sensitivity of the microphone lies within a desired range.

However, as the Examiner indicates, the reference fails to teach the disconnecting step, which according to the present invention, includes destroying the passive components with a laser beam directed through openings in the housing. The Examiner is now taking official notice that it is well known in the art to use the laser beam equipment to destroy the electrical part.

It is respectfully submitted that, while it may be known generally to destroy parts by using a laser beam, the entire prior art of record does not disclose or suggest the specific step of conducting a laser beam through an opening in the housing in order to destroy a passive component in order to alter amplification of this amplifier.

In other words, the reference applied by the Examiner in rejecting the claims does in no way suggest using a laser beam for destroying one of the components. When taking official

notice of the fact that a laser beam may be used for destroying an electrical component, there is absolutely no suggestion in the reference to use this step in a method for producing a microphone which comprises a microcapsule and an amplifier mounted in a housing, wherein the disconnecting step includes destroying the passive components with a laser beam directed through openings in the housing.

As discussed in the Amendment dated August 3, 2007, it is applicant's position that European reference 0 451 549 A is more relevant with respect to the present invention as claimed than is the reference relied on by the Examiner. This European reference is in the European Search Report indicated as category X, i.e., as particularly relevant when taken alone.

It is further respectfully submitted that the remaining references cited in the final rejection and the references cited in the European Search Report do not disclose or suggest the present invention as claimed.

Therefore, it is submitted that the reference to Killion does not disclose or suggest the invention as recited in claims 1, 5 and 9.

CONCLUSION

Accordingly, in view of the above considerations, it is applicant's position that the Examiner's rejection of the claims is in error and should be reversed.

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Respectfully submitted,
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March 20, 2008

CERTIFICATE OF MAILING

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By: FK

Date: March 20, 2008

Friedrich Kueffner

APPENDIX

CLAIMS ON APPEAL

1. A Method for producing a microphone with a stipulated sensitivity within narrow limits, the microphone having a microcapsule and an amplifier mounted in a housing, the method comprising the steps of:
providing the amplifier with a network of passive components;
measuring the sensitivity of the microphone; and
disconnecting the passive components to alter amplification of the amplifier so that the sensitivity of the microphone lies within a the desired range, wherein the disconnecting step includes destroying the passive components with a laser beam directed through openings in the housing.
2. The method according to claim 1, wherein the passive components are resistors.

3. (Canceled)
4. The method according to claim 1, wherein the disconnecting step includes destroying electrical feed lines to the passive components to be disconnected.
5. A microphone having a sensitivity stipulated within narrow limits, comprising:
 - a housing;
 - a microphone capsule;
 - an amplifier; and
 - a network of passive components allocated to the amplifier, at least one of the passive components being disconnected, wherein disconnection of the disconnected component occurs by destruction of an electrical feed line of the component by a laser beam directed through openings in the housing.
6. The microphone according to claim 5, wherein the passive components are resistors.
7. (Canceled)

8. The microphone according to claim 5, wherein the passive component is at least one of a capacitive component and an inductive component.
9. A microphone having a sensitivity stipulated within narrow limits, comprising:
 - a microphone capsule;
 - an amplifier; and
 - a network of passive components allocated to the amplifier, at least one of the passive components being disconnected, wherein the network of passive components and the amplifier are mounted on a single circuit board.

EVIDENCE

N.A.

RELATED PROCEEDINGS

There are no related proceedings.